

REMARKS

This communication is in response to the Office Action mailed on April 13, 2004. In the Office Action, claims 1-10 were pending.

The Office Action first reports that claims 1-10 were rejected under 35 U.S.C. § 112 as being indefinite. Of these claims, claims 1, 8, and 9 are in independent form. The Office Action states that the phrase "one or more", contained in independent claims 1, 8, and 9, is indefinite as it recites alternative structure. Applicant has replaced the phrase "one or more" in said claims with the phrase "at least one" which was indicated as being acceptable. Applicant respectfully requests that the rejection of claims 1-10 under §112 be withdrawn.

Next, the Office Action reports that the drawings were objected to under 37 CFR 1.83(a) as the drawings must show every feature of the invention specified in the claims. Specifically, the Office Action required that claimed details of claims 2-5, 8, and 10 (push button function), the control logic of claims 3-5, and the pinch safety system of claim 5 must be shown. Applicant submits that a push button is clearly shown in FIG. 1. Arrows next to switch 7 show that switch 7 can be depressed and rotated. If the switch 7 is depressed, contact will be made between portions of the switch and thus a signal can be sent to control unit 6. Furthermore, applicant has provided a replacement sheet showing control unit 6 and a pinch safety system of the control unit. Applicant notes that all additional drawings and modifications are consistent with the specification and do not constitute new matter. Applicant respectfully submits that the drawings are in allowable form and requests that the objection under 37 CFR 1.83(a) be withdrawn.

Next, the Office Action reports that claims 1, 2, and 6-10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Weissrich et al. (U.S. Pat. No. 5,749,617, hereinafter

"Weissrich"). Generally, Weissrich discloses a motor vehicle roof control actuated with a rotary switch. Motors are used to position the vehicle roof corresponding to the position of the rotary switch. When an operator rotates the switch to a desired position, the motors immediately move the vehicle roof to the corresponding position without further input from the user. In this manner, the positioning of the vehicle roof is accomplished through a single operation. In the portion cited by the Office Action (col. 4, ln. 1-4, 21-27), Weissrich states that the switch may be "executed as a push button switch function." However, Applicant respectfully notes that Weissrich only discloses using a button that needs to remain depressed in order to completely open or close the vehicle roof. In this manner, the operator must keep the switch depressed until the opening or closing process is completed in full. Premature release of the switch interrupts the opening or closing process.

Applicant respectfully notes that independent claims 1, 8, and 9, of the present invention recites a control element having a first and second operation to control the roof assembly of a vehicle. The first operation is used to select the desired position of the roof assembly and the second operation is used to activate the control unit to energize at least one drive motor to position the roof assembly according to the position selected by said first operation. Simply put, the roof assembly is moved to the position specified by the first operation of the control element after the occurrence of the second operation, which activates the motors.

Applicant respectfully submits that Weissrich does not teach or suggest a control element having a range of adjustment for a first operation and a second operation activating the control unit to energize at least one of a drive motors to move at least one of the roof members to a position corresponding to the pre-selected position of the control element. Although Weissrich does

disclose using a button to execute the switch function to completely open or close a roof assembly, the button function that is taught does not activate the control unit to move the roof assembly to the desired position. Instead, the operator must continue to hold the button to completely open or close the roof assembly. As a result, the button does not move the roof assembly to the selected position as the movement of the roof assembly is directly dependent on continuous operator input. The continuous operator inputs is thus different from the claimed invention in which a second operation is used to activate the control unit to energize at least one drive motor to move the roof assembly to the pre-selected position. The continuous input of Weissrich moves the roof assembly and is simply not a second operation that initiates activation of a control unit. As a result, independent claims 1, 8 and 9 are believed to be allowable.

Next, the Office Action rejected claims 3-5 under 35 U.S.C. §103(a) as being unpatentable over Weissrich in view of Caye et al. (U.S. Pat. No. 5,961,177, hereinafter "Caye"). Applicant respectfully submits that claims 3-5, which depend either directly or ultimately on independent claim 1, are in allowable form. Claims 3-4 relate to activating and deactivating the control unit of the roof assembly upon operation of a push button switch. Claim 5 relates to overriding a pinch safety system.

Caye discloses a switch assembly including a knob and a rocker button used to control a sunroof assembly. The knob is used to select the system component that is desired to be moved. The rocker button comprises an open and a close button separate from each other. In this manner, the rocker button is also a selection means as one button opens and one button closes the sunroof assembly. On the other hand, the open and close selection control in Weissrich is accomplished through the setting of the rotary switch. A single push-button is used to execute the

opening and closing of the roof assembly in accordance with the rotary switch when the rotary switch is in the fully open or fully closed position. Alternatively, Caye utilizes two separate push-buttons as a selection means to determine whether to open or close the sunroof assembly. As a result, the buttons utilized in Weissrich and in Caye are used for separate and fundamentally different purposes. Hence, Applicant respectfully submits that there is no motivation or support to combine the switch functions of the Weissrich and Caye references and thus claims 3-5 are believed to be allowable.

In view of the foregoing, Applicant respectfully submits that independent claims 1, 8, and 9 are not taught or suggest by Weissrich and are in allowable form. In addition Applicant respectfully submits that dependent claims, namely claims 2-7 and 10, which are believed independently and separately patentable, are also in allowable form. Reconsideration and allowance of claims 1-10 are respectfully requested.

A petition for an extension of time is hereby requested. A check in the amount of \$110.00 is included herewith for the extension fee.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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